

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

KWADENE LIVINGSTON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Civil No. 09-546(WJM)

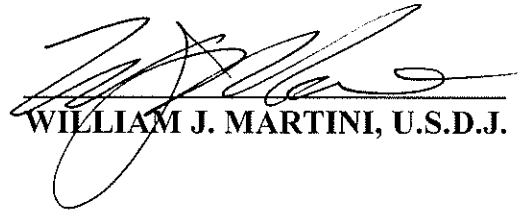
ORDER

THIS MATTER comes before the Court on pro se Petitioner Kwadene Livingston's Rule 60(b) motion for relief from this Court's July 30, 2009 denial of his Section 2255 petition; and this Court previously having denied Petitioner's motion for reconsideration of the July 30, 2009 order (Docket No. 14); and the instant motion raising the same issues previously passed upon and rejected by this Court in the Section 2255 motion and the subsequent motion for reconsideration; and the instant motion setting forth none of the requisite elements of a Rule 60(b)(1) action, namely "mistake, inadvertence, surprise, or excusable neglect"; and the instant motion also failing to set forth any fraud by an opposing party relating to Petitioner's Section 2255 petition; and the Court finding that, to the extent that Petitioner is seeking new review of his habeas claims, he presents a second or successive habeas petition to this Court that fails to comport with the requirements of 28 U.S.C. § 2255(h); and for good cause shown,

IT IS on this 14th day of June 2010, hereby,

ORDERED that Petitioner's motion for relief under Federal Rules of Civil Procedure 60(b)(1) and (3) is **DENIED**; and it is

FURTHER ORDERED that a certificate of appealability shall not issue since Petitioner has not made a “substantial showing of the deprivation of a constitutional right,” as required by 28 U.S.C. § 2253(c)(2).



WILLIAM J. MARTINI, U.S.D.J.